

**REMARKS**

This is in response to the Office Action mailed 3/20/2009.

Applicants wish to note on the record that they have received a PTO-1449 with respect to patent references submitted, but have not received one for the literature submitted in a separate filing. Applicants wish to formally request the Examiner provide an initialed copy of the PTO-1449 submitted on 4/8/2005, which contained Applicants' cited non-patent literature.

Reconsideration of this application is respectfully requested in view of this response/amendment.

**STATUS OF CLAIMS**

Claims 1 and 16 are pending.

Claims 2-15 and 17-40 were previously cancelled.

Claims 1 and 16 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

Claims 1 and 16 stand rejected under 35 U.S.C. § 102(a) as being anticipated by the article to Trompenaars et al. entitled, "Culture for Business Series: Business Across Cultures," hereafter "Trompenaars".

### **DOUBLE-PATENTING REJECTION**

Claim 1 is provisionally rejected on the grounds of non-statutory obviousness-type double patenting as being unpatentable over claim 1 of co-pending application 12/130,379. Applicants respectfully request the Examiner to withdraw the double patenting rejection as a terminal disclaimer in compliance with 37 C.F.R. 1.321(c) has been filed along with this response.

### **REJECTIONS UNDER 35 U.S.C. § 101**

Claims 1 and 16 stand rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. Applicants have made minor clarifying amendments to claims 1 and 16 without adding new matter. Applicants respectfully submit that these minor clarifying amendments place claims 1 and 16 in the statutory realm. Therefore, Applicants request the Examiner to withdraw the 35 U.S.C. §101 rejections with regards to claims 1 and 16.

### **REJECTIONS UNDER 35 U.S.C. § 102(a)**

Claims 1 and 16 stand rejected under 35 U.S.C. § 102(a) as being anticipated by the article to Trompenaars et al. entitled, “Culture for Business Series: Business Across Cultures,” hereafter “Trompenaars”. Applicants respectfully disagree with the Examiner that the claims are taught by the cited art (i.e., Trompenaars). The Manual for Patenting Examining Procedure (MPEP) §2131 clearly sets forth the standard for rejecting a claim under 35 U.S.C. §102(a). “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” (MPEP §2131, quoting *Verdegaal Bros. v. Union Oil Co. of California* 2 USPQ2d 1051, 1053 (Fed Cir. 1987)).

Applicants respectfully assert, and as will be shown in the arguments below, that Trompenaars fails to teach the claimed invention as required by the MPEP.

Trompenaars discloses methods for marketing across cultures, understanding different markets and customer needs in a wide range of cultural contexts, and how to approach and resolve the challenges they present. Trompenaars also discloses a new conceptual framework for dealing with the business implications of culture by providing a practical toolkit for managers and leaders by helping them develop a new mindset for working with and across cultures.

Applicants' claim 1 specifically recites the feature of the reconciled pairs of alternatives statements being applied to realistic work conditions to produce a series of outcome narratives each of which comprises: (1) either of: a situation or dilemma statement; (2) a desired outcome in which answers are given to a list of questions about actions to be taken, roles of decision makers, and behaviors associated with those who need to take action; (3) a list of in-scope roles, an in-scope role being performed by one or more individuals involved in an action according to said desired outcome; (4) role behaviors and actions associated with in-scope roles, wherein role behaviors and actions specify the desired way the desired outcome is to be accomplished; and (5) other applicable considerations that specify additional information that could be important in translating the details of the outcome narrative to other issues that have similar characteristics.

With regard to the feature of the outcome narratives being a desired outcome in which answers are given to a list of questions about actions to be taken, roles of decision makers, and

behaviors associated with those who need to take action, the Examiner cites page 304 of Trompenaars as teaching such a feature. Applicants respectfully disagree.

Page 304 of Trompenaars merely discloses how clients are asked to rank priorities and also asks clients to identify what is important to an organization. However, Applicants claim 1 specifically requires questions about “roles of decision makers” and “behaviors associated with those who need to take action”. Applicants respectfully maintain that Trompenaars fails to teach such queries regarding roles and behaviors.

With regard to the feature of the outcome narratives being a list of in-scope roles, an in-scope role being performed by one or more individuals involved in an action according to said desired outcome, the Examiner cites page 144 of Trompenaars as teaching such a feature. Applicants respectfully disagree.

Page 144 of Trompenaars merely discloses how discussions with regard to tensions between two organizations resulted in the identification of at least five dilemmas. However, conspicuously absent in the Examiner’s citation is a teaching or suggestion for narratives being a list of in-scope roles. Examples of such narratives and such identification of in-scope roles are taught for in Table 4 of the application-as-filed, which is provided below:

| shows an Outcome Narratives Form  |   |
|---|---|
| <p><b>Situation/Dilemma Statement:</b><br/>A disagreement exists between a relationship manager who wants to get approval for a proposed client contract and the Finance manager that needs to approve that contract. The disagreement centers around the relationship manager's level of authority since the contract value is above official authority levels</p> <p><b>In-Scope Roles:</b><br/>Client-facing leaders (Relationship Manager)<br/>Business advisors (Finance Manager)</p> <p><b>Applicable Categories:</b><br/> <input checked="" type="checkbox"/> Decision Making<br/> <input checked="" type="checkbox"/> Processes<br/> <input checked="" type="checkbox"/> Communications<br/> <input checked="" type="checkbox"/> Execution<br/> <input type="checkbox"/> Leadership Approach<br/> <input type="checkbox"/> People and Development</p> | <p><b>Desired Outcome:</b> The relationship executive is responsible for the ultimate decision. The exceptions would be for financial implications that fall more than 2% outside the established levels of authority for that client relationship position. The identified escalation process should be used for the exceptions and other unusual circumstances, and an answer needs to be communicated within 48 business hours</p> <p><b>Role Actions and Behaviors:</b><br/> <b>Client-facing Leader:</b> Needs to work actively, and with the intent of true resolution, to understand the reasons behind the objections and what is best for the client and company overall. Needs to seek ways to mitigate the risks and impacts by working collaboratively with Finance. Needs to seek others to help resolve and "mediate" the issues before escalation. Should ensure the next higher level client-facing leader concurs with the decision before implementation if mediation has not resolved the issues. If appropriate, needs to support the escalation process and constructively implement the decision from the escalation process. Should work actively to restore any relationships that suffered during the situation.<br/> <b>Business Advisor:</b> Needs to be objective about the concerns and ensure that the risk/issue is serious enough to warrant continued work vs. implementing the relationship leader's preferred course of action. Needs to work collaboratively to mitigate the risks/issues while meeting the client and company requirements. Should engage in "mediation" if an adequate resolution cannot be found. If appropriate, needs to support the escalation process. Should support and enact the final decision, whether it is made by the relationship manager or the escalation process. Should work actively to restore any relationships that suffered during the situation.<br/> <b>Other Considerations:</b> Size of the overall client relationship; history of financial dealings with that client; track record for decision making by the relationship manager; criticality of the project for the business (to meet revenue targets, to gain an important qualification for this type of work)</p> |

In the non-limiting example presented above, it can be seen that the present invention's system and method provides for an identification of in-scope roles associated with the Relationship Manager ("client facing leaders") and the Finance Manager ("business advisors"). Trompernaars lacks such identification.

Also, with regard to the feature of the outcome narratives being role behaviors and actions associated with in-scope roles, wherein role behaviors and actions specify the desired way the desired outcome is to be accomplished, the Examiner cites page 144 of Trompenaars as teaching such a feature. Applicants respectfully disagree.

With regard to the feature of the outcome narratives being other applicable considerations that specify additional information that could be important in translating the details of the outcome narrative to other issues that have similar characteristics, the Examiner cites page 114 of Trompenaars as teaching such a feature. Applicants respectfully disagree.

As mentioned previously, page 144 of Trompenaars merely discloses how discussions with regard to tensions between two organizations resulted in the identification of at least five dilemmas. Applicants maintain that Trompenaars fails to make any mention of specifying additional information that is used to translate the details of the outcome narrative to other issues that have similar characteristics.

Further, in an attempt to move prosecution further, Applicants have clarified that the selection step from alternatives statements involve pairs of alternatives statements reflecting right-versus-right spectrums, wherein the right-versus-right spectrums are evaluated for reasonableness by verifying that, for each of said right-versus-right spectrums, one or more members of said participating entity or entities agrees that said right-versus-right spectrum is important, and the alternatives statement pairs are drafted as plausible, contrasting ends of said right-versus-right spectrum; with the contrasting ends not required to be equally plausible.

Applicants respectfully request the Examiner to review Table 2 of the application-as-filed (which is also provided below for the convenience of the examiner), which provides a non-limiting example of right-versus-right spectrums.

TABLE 2

| Examples of alternatives statement on a right-versus-right spectrum<br>Right vs. Right Spectrums                   |      |        |        |        |   |
|--|------|--------|--------|--------|---|
| Alternatives   | 100% | 99-51% | 50/50% | 51-99% | 100% Alternatives   |
| On projects, adherence to schedule is more important than adherence to project budget                              |      |        |        |        | On projects, adherence to project budget is more important than adherence to schedule   |
| Innovation is equally important to finding cost savings  |      |        |        |        | Cost savings are more important than innovation   |
| Adherence to established quality standards will be top priority, even if it means creating cost or schedule issues |      |        |        |        | Cost or schedule issues can be reasons to make appropriate near-term trade-offs in the established quality standards, but only to the extent that customer requirements are not compromised |
| Process requirements can be bypassed only with approval of the next level of management                            |      |        |        |        | Process requirements can be bypassed if justifiably deemed to be an inhibitor to customer satisfaction in a given circumstance  |

Applicants respectfully submit that this feature of right versus right spectrums is not taught or suggested by Trompernaars.

Absent such a showing of the above-mentioned features, Applicants respectfully submit that the art of record fails to teach or suggest the features of Applicants pending independent claim 1. Applicants, therefore, respectfully request the Examiner to withdraw the 35 U.S.C. 102(a) rejection with regard to Applicants' independent claim 1.

Further, the above-mentioned arguments with regard to Applicants' independent claim 1 substantially apply to applicants dependent claim 16 as it teaches all of the features of the claim from which it depends. Applicants, therefore, respectfully request the Examiner to withdraw the 35 U.S.C. 102(a) rejection with regard to Applicants' independent claim 16.

If the Examiner still feels that Trompenaars teaches specific recitations of Applicants' pending claims, Applicants' wish to emphasize that it is the duty of the Examiner to specifically point out limitations with respect to each and every claim element such that Applicants' are aware of how the Examiner is applying a reference in a rejection. Specifically, §1.104(c)(2) of Title 37 of the Code of Federal Regulations and section 707 of the M.P.E.P. explicitly states that "the particular part relied on must be designated" and "the pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified".



**SUMMARY**

As has been detailed above, none of the references, cited or applied, provide for the specific claimed details of Applicants' presently claimed invention, nor renders them obvious. It is believed that this case is in condition for allowance and reconsideration thereof and early issuance is respectfully requested.

As this response has been timely filed, no request for extension of time or associated fee is required. However, the Commissioner is hereby authorized to charge any deficiencies in the fees provided to Deposit Account No. 09-0441.

If it is felt that an interview would expedite prosecution of this application, please do not hesitate to contact Applicants' representative at the below number.

Respectfully submitted,

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